REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested. To this end, an Amendment is hereby made to respond to the outstanding Office Action of ***October 6, 2011.*** Although it is believed that no fee is due at this time for filing this Amendment, the Commissioner is hereby authorized to charge any fee that should have been filed at this time to our Deposit Account No. 14-1140.

Claims 1, 3 – 13 and 15 – 25 are pending in the application. Upon entry of this Amendment, claims 3 – 6 and 15 – 17 will be cancelled and claims 1, 7 – 13 and 18 – 25 will be amended to clarify the claimed invention and/or better conform such claims to U.S. patent claim practice. In addition, new claim 26 will be added.

A. CLAIM AMENDMENTS

Independent claims 1 and 13 of the present application have been amended to change the term "item" to -- food item piece -- and the term "sub-item" to -- sub-food item piece --. Independent claims 1 and 13 have been further amended to include in such claims the features of claims 5 and 17, respectively, so that such claims now recite the sub-items having more than one origination. Support for these changes can be found in at least paragraphs [0011], [0012], [0028] and [0029] of the published version of the present application, *i.e.,* Publication No. US-2007-0293980-A1. The language of the remaining claims in the present application has been adapted to conform it to the language of amended independent claims 1 and 13. Support for new claim 26 may be found in at least paragraph [0028] of the published version of the present application.

Amended independent claim 1 now describes a method of operating a combined information handling and food processing system in which is enabled the tracing of sub-food

item pieces origination from the same batch of two or more origins. Thus, amended claim 1 relates to tracing the origination of a mix of sub-food item pieces of two or more origins to the batch in which the sub-food item pieces were originally placed at a processing station. As an example of one embodiment of the claimed system, a batch may be a package (*see, e.g. para.* [0017] and [0024] of the published version of the present application) having an identifier that uniquely identifies the package. The batch may contain a mix of 20 sub-food item pieces, such as chicken wings/legs/fillet originating from three different farms. If one of these sub-food item pieces is subsequently determined to be contaminated, the origination of the contaminated sub-food item piece may be traced via the identifier that identifies the package, so that the three different farms from which the food item pieces originated may be identified. The origination may alternatively be based on the animal from which the sub-food item pieces originate (*see, e.g.,* para. [0028] of the published version of the present application) and thus the tracing may relate to the processing of the sub-food item pieces, and thus, identifying the processing resources or facilities which have been in contact with the food item pieces or sub-food item pieces (*see, e.g.,* para. [0015] of the published version of the present application).

B. THE OBVIOUSNESS REJECTION UNDER 35 U.S.C. §103(a)

In the outstanding Office Action, the Examiner <u>again</u> rejected claims 1 – 25 under 35 U.S.C. §103(a) as being unpatentable over Thorvaldsson (U.S. Patent No. 6,546,304) in view of Ramsay (U.S. Patent Application Publication No. 2004/0177011). The Examiner's rejection is respectfully traversed.

For a claimed invention to be obvious over a combination of references, there must be some reason as to why one of ordinary skill in the art would have combined the references, as argued by the Examiner, to arrive at the claimed invention. Here, even assuming, *arguendo,* that

the Examiner properly combined the cited references, the result would not be the claimed invention because such references do not, either alone or in combination, disclose or suggest all of the features of the claimed invention.

Thorvaldsson discloses an integrated meat processing and information handling method using a tracing method for tracing a position of a piece of meat on a conveyor, where information related to the piece of meat is stored in a computer system. The piece of meat is transferred between a number of processing stations, while the position of the piece of meat is traced. Thorvaldsson, col. 1, ln. 62 to col. 2, ln. 3. The tracing may be done, for example, by placing a number of sensors along a conveyor so that when pieces of meat are placed sequentially on the conveyor, the position of each piece of meat can be determined by tracing the number of pieces passing the sensors placed along the conveyor belt and by relating this number to the sequence in which the pieces of meat were placed on the conveyor. Thorvaldsson, col. 2, lns. 9-21. As an example, products arriving have an ID-tag, such as a serial number, Thorvaldsson, col. 5, lns. 40 and 44, and col. 6, ln. 14, where the position and information related to every single piece of the meat may be traced, Thorvaldsson, col. 5 lns. 27 – 32. The tracing of each individual piece of meat may, for example, be achieved by separating one and the same product into different products, such as, for example, prime cut, trim A, trim B, and fat, where buffers C and D are used for trim A and B, and emptied at specific time intervals, and where fat is inserted in buffer D and then released onto a fat conveyor at predetermined time-intervals, Thorvaldsson, col. 7, lns. 14 – 19.

The difference between the system described in amended claim 1 of the present application and Thorvaldsson is that, in the claimed system, the tracing is based on tracing each individual batch containing a mix of sub-food item pieces, such as pieces of meat (*see, e.g.,* para.

[0029] of the published version of the present application) of two or more different origins, where data about these different origins in each individual batch is known without knowing the origin for each individual item piece in the batch. In this way, in the claimed system, each respective batch may be considered as a single domain that is uniquely identified via an identifier, such as an ID number of the batch (*see, e.g.,* para. [0024] of the published version of the present application), wherein the domain element is the information about the origin of the sub-food item pieces in the batch.

The effect of this difference is that it is now possible to trace the origin of the sub-food item pieces in a batch, even though the sub-food item pieces are a mix of item pieces having different originations. In this regard, see, for example, paragraph [0011] of the present application. Also, the tracing will be simpler (see, for example, paragraph [0006]). Further, since the origination data is preserved in the memory of the computer system, rather than on labels, the certainty of the origination of food item pieces in a food product becomes highly improved and the process of moving labels and duplicating labels between food item pieces and sub-food item pieces during the processing is eliminated (*see, e.g.,* para. [0011] of the published version of the present application).

The objective technical problem with Thorvaldsson is that the tracing is limited to tracing only one type of food item piece at a time, and not a mix of food items of more than one food item's origin within the same batch.

The claimed system solves this problem by means of uniquely identifying batches via an identifier defining a data set of a second type which comprises data about the origin of the sub-food item pieces in the batch data and the assigned identifier. A single batch may, for example, contain 100 sub-food item pieces from five different originations (*e.g.,* five different farms or

five different animals). If, for example, one of the sub-food item pieces in a batch is determined to be contaminated, the tracing used by the claimed system would be based on tracing the sub-food item piece to the identifier of this particular batch (*e.g.,* to the box containing the sub-food item piece). Knowing the batch identifier, the associated data about the origin of the sub-food item pieces in this particular box is then known, that is, in this case the five different farms or different animals. A further task would then be investigating these five farms further so as to find out the origin of this contamination, or to investigate the processing resource or facility which has been in contact with the sub-item pieces (*see, e.g.,* para. [0015] of the published version of the present application).

Applicant contends that one of ordinary skill in the art would not have combined Ramsay with Thorvaldsson because the technical solutions of these two references are incompatible. Ramsay discloses a food contamination tracking system that receives electronic records indicative of food items from several different food processing facilities, and that is configured to forward track through these records (Ramsay, para. [0005]). The facilities may, for example, be processing facilities, such as farms, ranches, slaughterhouses ([Ramsay, para. 0020]), distribution facility ([Ramsay, para. 0024]) that, for example, only stores the food item vehicles, such as trucks, boats, cars, rail cars and ships (Ramsay, para. [0025]). Accordingly, Ramsay discloses "a global tracking system" from, for example, the ranch where the cattle is initially raised, to the restaurants that are selling the meat some months or years later (Ramsay, para. [0054]). Accordingly, the "tracking time-line" in Ramsay can span several months, or even years, whereas the "tracking time-line" in Thorvaldsson would maybe be few hours (where tracking was within the processing facility) or days, which is a small time-portion of the tracking time-line in Ramsay.

Applicant also contends that a person of ordinary skill in the art facing the objective technical problem of how to trace multiple sub-food item pieces of two or more origins has no incentive to combine the teachings of Ramsay with the teachings of Thorvaldsson because such person would, in light of the teachings of Thorvaldsson, look towards a solution involving tracing sub-food item pieces of two or more origins in one and the same the batch. Referring to the Examiner's statement in paragraph 4 of the outstanding Office Action, if the teaching from Thorvaldsson includes tracing and storing information regarding sub-food item pieces of one origin in a batch, the skilled person would certainly, facing the foregoing objective technical problem, improve Thorvaldsson's teaching by looking towards a solution involving tracing and storing information of sub-food item pieces of more than one origin in one and the same batch. Accordingly, the solution the person of ordinary skill would end up with would be a batch containing multiple sub-food item pieces where each sub-food item piece would be uniquely identified with respect to its origin. Such as solution is obviously different from the tracing approach used in the claimed system described in amended claim 1 of the present application, where the tracing is based on the identifier that identifies the batch and the data related to the origin of the sub-food item pieces in the batch (that is, not uniquely identifying each individual sub-food item piece).

Applicant further contends that even if a person of ordinary the skill in the art would have combined the teachings of Ramsay with those of Thorvaldsson, as argued by the Examiner, he/she would not arrive at the claimed system. Ramsay discloses (*see* Ramsay, para. [0110]) placing meat from two or more hoppers in a hamburger patty forming machine to produce several thousand hamburger patties. A new food item ID number would then be associated with this machine and with the patties outputted from this machine so that each box the patties are

stacked in would be given this new ID number. In light of the Examiner's statement in paragraph 6 of the outstanding Office Action, the content in the two or more hoppers would correspond to the sub-item pieces in the claimed system of the present application and the hamburger patty forming machine would correspond to the batch. Applicant respectfully submits that the content in these hoppers can hardly be considered as sub-food item pieces (*e.g.,* chicken breasts), since such hoppers would typically contain large amounts of food, in this case several hundreds of pounds of meat, which are used to produce several thousand patties (see Ramsay, para. [0110], ln. 6).

Also, the hamburger patty forming machine could not be considered as being equivalent to a batch that contains, for example, fifty chicken breasts from five different origins, since the hamburger patty forming machine would contain and process hundreds of pounds of meat to produce the several thousand patties. Likewise, there would not be tens of such hoppers or hamburger patty forming machines arranged along a conveyor so as to be used as batches.

Accordingly, Applicant concludes that Ramsay discloses a stationary process in which hundreds of pounds of meat from two or more hoppers (content of the meat in each hopper has an ID number) are inputted into a hamburger patty forming machine where the stack of patties coming from the machine have a new ID numbers used to track the patties back to said two or more ID numbers for the hoppers, while the claimed system on the other hand uses a dynamic process of conveying sub-food item pieces and selecting appropriate batches for these sub-food item pieces while keeping track of the origin of the food item pieces in the batches.

In view of the foregoing remarks, it is clear that combining the teachings of Ramsay with those of Thorvaldsson would not result in the claimed invention. As such, amended independent claim 1 of the present application would not have been obvious over the combination of

Thorvaldsson and Ramsay. Morevover, the foregoing remarks also apply to the system described by independent system claim 13. For this reason, the subject matter of claim 13 is also non-obvious over Thorvaldsson and Ramsay. And neither are all of the dependent claims of the present application, which depend from claim 1 or 13.

In view of the foregoing, it is believed that all of the claims pending in the application, *i.e.*, claims 1, 7 – 13 and 18 – 25, are now in condition for allowance, which action is earnestly solicited. If any issues remain in this application, the Examiner is urged to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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